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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,601	04/23/2001	James J. Fitzgibbon	70605	5590

22242 7590 05/21/2003
FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

RO, BENTSU

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/840,601

Examiner

Bentsu Ro

Applicant(s)

FITZGIBBON ET AL.

Art Unit

2837

– The MAILING DATE of this c mmunication appears on the c ver sheet with the corresp ndence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-20 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 and 33 is/are allowed.
- 6) ☒ Claim(s) 31 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

SECOND OFFICE ACTION — A FINAL REJECTION

1. Claims 31-32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Duhamé US Patent No. 5,285,136**. (This is a new reference.)

Claims read onto Duhamé's teaching as follows:

The claims:

Claim 31. A movable barrier operator comprising:

a motor connectable to a movable barrier and energizable to move the barrier between an open position and a closed position with respect to a barrier opening;

a position detector for sensing a position of the barrier;

a controller

responsive to input commands

and the position detector for controlling the energizing of the motor to control the movement of the barrier;

Duhamé's teaching:

see Fig. 1 circuit;

see title for the words "garage door operator";
all garage door operators perform the same function as claimed, including a motor 27 to move the garage door between an open position and a closed position;

Fig. 1 shows an open/close limit detectors 28;

the Fig. 1 circuit, including microcontrollers 25, 47 and the associated circuits or devices or sensors;

the input commands can be the input signals from push button switches 13 or 29;

from Fig. 1, it can be seen that the microcontroller 25 receives : (1) input signal from push button 13 via transmitter 10, receiver 22 and demodulator decoder 23, (2) input signal from push button switch 29, and (3) open/close signal from limit detectors 28;

the microcontroller 25 controls the motor 27 to control the movement of the garage door;

apparatus for defining a minimum reversal position of the barrier at a position near a closed limit of the barrier; and

the controller responds to a close input command

and the defined minimum reversal position

Fig. 1 shows a supplemental obstruction detector 40;

the supplemental obstruction detector 40 is a radiation type obstruction detector located at the near-bottom of the garage door opening 5, thus, the detector 40 defines a minimum reversal position of the garage door; the supplemental obstruction detector 40 includes a radiation transmitter 42, a reflector 44 and a receiver 45, the position of these elements define a minimum reversal position;

if the radiation beam from the transmitter 42 is interrupted at any point of the garage door movement before this minimum reversal position, the garage door will reverse; however, once the garage door passes this minimum reversal position, interruption of the radiation beam becomes impossible because the blockage of the garage door; see similar explanation in the first office action, page 3, fourth paragraph on the left-column;

the microcontroller 25 receives a close input signal from push button 13 via transmitter 10, receiver 22 and demodulator decoder 23 or a close input signal from push button switch 29;

see col. 5, lines 15-17; 27-28; 59-61; col. 5, line 67 to col. 6, line 22; etc.

for example, col. 5, lines 27-28 states "*The active safety signal from switcher circuit 48 is detected by analog signal conditioner 31*", this statement clearly shows that the microcontroller 25 responds to the signal from the supplemental obstruction detector 40;

by energizing the motor to move the barrier to a position more closed than the minimum reversal position to force the barrier against a substantially fixed part of the barrier opening.

without the interruption of the radiation beam, the microcontroller 47 issues an active safety signal to the microcontroller 25 via the circuit elements 48 and 31, the microcontroller 25 thus continuously energizes the motor 27 to move the garage door beyond the "minimum reversal position" until the garage door touches the ground;
once the garage door touches the ground, the close limit detector 28 issues a signal to the microcontroller 25, the microcontroller 25 de-energizes the motor to stop the garage door;
it is noted that the close limit detector 28 is located at the end position of the garage door movement so that the garage door can be fully closed;
if the garage door is fully closed, the motor obviously "forces the barrier against a substantially fixed part of the barrier opening" as claimed.

Claim 32.

Duhamel teaches a garage door as a barrier and a garage door floor as a fixed part.

2. Claims 16-20 and 33 are allowable.

3. Applicant's arguments with respect to claim 31 have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CAR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication should be directed to Bentsu Ro at telephone number 703 308-3656.

May 15, 2003

Bentsu Ro
Bentsu Ro
Primary Examiner